

# PROHIBITING THE DEPOSIT AND/OR TRACKING OF CERTAIN MATERIALS ONTO TOWN HIGHWAYS AND STREETS

## Chapter 43

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### § 43-1. Purpose.

The purpose of this Local Law is to protect the health, safety and welfare of the residents of the Town of Windsor and individuals who drive on Town streets and highways, by prohibiting the deposit and/or tracking of defined debris onto Town streets and highways.

Nothing contained herein shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agriculture and Markets Law.

### § 43-2. Definition.

The term “debris” shall refer to manure, dirt, soil, mud, stones, timber, timber debris (including limbs, bark and leaves), building/construction materials, garbage, and waste, junk and/or like materials/substances.

### § 43-3. Activities Prohibited.

No person, firm or corporation shall deposit or track debris as defined herein onto any Town

street or highway. Where such debris is tracked or deposited onto any Town street or highway adjoining or adjacent to any site or location where,

- a. building or construction operations;
- b. the laying of water or sewer lines or other utility installations;
- c. logging or foresting operations;
- d. oil and/or gas operations;
- e. the transportation or excavation of soil, stones, building materials or debris;
- f. the transportation of manure, garbage, waste, junk, and/or like materials/substances; and/or
- g. or other similar activity;

are being conducted, or adjacent to a driveway, easement or right-of-way directly connecting to any such site or location where any of the above operations or activities are being conducted, it shall be presumed that the person, firm or corporation engaged in said activities or operations is the person, firm or corporation who deposited or tracked said debris onto such Town street or highway.

**§ 43-4. Enforcement and Penalties.**

- A. Conviction under this local law shall be a violation as defined by Section 55.10(3) of the Penal Law of the State of New York; as it may be amended from time to time.
- B. Each day during which a violation continues may be deemed to be a separate violation.
- C. Conviction of an offense as provided by the local law shall be punishable by one or more of the following:
  - 1. In the case of a corporation, a fine in accordance with Penal law Section 80.10, as it may be amended from time to time and/or
  - 2. In the case of an individual(s), a fine of not more than \$250.00 and/or a term of imprisonment not to exceed fifteen (15) days or both, and/or
  - 3. Restitution based on the costs incurred by the Town in the removal of any debris deposited or tracked in violation of this local law,
  - 4. Restitution based on repair of damages to the roadway due to the depositing and/or tracking of the materials in the roadway, and/or
  - 5. Community service.

D. In addition to the above provide penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with this local law by injunction, abate or otherwise compel cessation of each violation, or obtain restitution to the Town for costs incurred by the Town in identifying and remedying each violation, including but not limited to reasonable attorney's fees.

**§ 43-5. Repeal**

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

**§ 43-6. Conflicts of Law**

Whenever any local law, ordinance, or regulation of the Town of Windsor, County of Broome, State of New York, or United States of America is inconsistent with this local law, whichever local law, ordinance, or regulation is more stringent shall supersede the less stringent local law, ordinance, or regulation.

**§ 43-7. Separability**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Windsor hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**§ 43-8. Effective Date**

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law as it may be amended from time to time.

[History: Local Law #3-2009, Adopted on 12/12/2009]

